IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Writ Petition No.2l66 of 2006

Mr Santosh P Shinde ..petitioner
vs
Vivid Karyakariseva Sah Vikas Seva
Sanstha Ltd and ors .. respondents

Mr A.S.Desai with P J Pawar for petitioner

CORAM:V.G.PALSHIKAR AND

V.R.KINGAOKAR JJ.

DATED 29.3.2006

P.C.

l. By this petition, the petitioner seeks a mandamus directing the Registrar functioning under section 78 of the Maharashtra Cooperative Societies, Act, l960, hereinafter referred to as the said Act, to order removal of respondent nos. 3 to 6 as they are defaulters and have incurred disqualification under section 73FF of the said Act, are not entitled to act as members of the managing committee. Section 78 of the said Act provides that the Registrar may, if he finds that any member of a committee makes default, or is negligent in the performance of the duties imposed on it under the said Act or commits any act which

is prejudicial to the interests of the society or its members, or wilfully disobeys directions issued by the State Government or by the Registrar for the purposes of securing proper implementation of Cooperative Policy and development programme approved or undertaken by the State Government, may remove that member who is so guilty.

2. The claim of the petitioner is that respondent nos. 3 to 6 have incurred disqualification under section 73FF and the submission is that only Registrar can functioning under section 78 remove those persons and no dispute under section 9l of the said Act can be raised. Section 73FF provides that without prejudice to other provisions of the said Act or the rules made thereunder, in relation to the disqualification of being a member of a committee, no person shall be eligible for being appointed, nominated, elected, co-opted or, for being a member of committee, if he is a defaulter. Assuming that the allegation of respondent nos. 3 to 6 being defaulters is correct; they have incurred this disqualification as contemplated by section 73FF of the said Act, and, therefore they are not entitled to be a member of the committee,having incurred this disqualification. It is therefore squarely a dispute as covered by

section 9l of the said Act, which provides that any dispute touching the constitution, conduct of general meetings, management or business of society shall be referred by any of the parties to the dispute to the Coop Court. Disqualified members continue in the managing committee, is a question pertaining to constitution of a managing committee and a disqualification under section 9l that they are so disqualified and, therefore, not entitled to continue in membership, is squarely a dispute as contemplated under section 9l of the said Act. Hence the petitioner has alternate effective remedy. Therefore, this petition is dismissed.

(V.G.PALSHIKAR J)

(V.R.KINGAOKAR J)